

MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS COMMITTEE

June 14, 2005 at 1:00 P.M.

Room W135, House Building, Senate Capitol Complex

Members Present: Sen. Lyle Hillyard, Co-Chair
Rep. Ron Bigelow, Co-Chair
Sen. Gene Davis
Sen. Mike Dmitrich
Sen. Karen Hale
Sen. Peter Knudson
Sen. Ed Mayne
Pres. John Valentine
Rep. Jeff Alexander
Rep. Ralph Becker
Speaker Greg Curtis
Rep. Ben Ferry
Rep. Patricia Jones
Rep. Brad King
Rep. Roz McGee
Rep. Stephen Urquhart
Sen. Curtis Bramble, Vice Chair
Rep. David Clark, Vice Chair

Members Excused: Sen. Dan Eastman
Sen. Beverly Evans

Staff Present: John Massey, Legislative Fiscal Analyst
Lynette Erickson, Secretary

Others Present: Jon Ball, Legislative Fiscal Analyst
John Schaff, Legislative Auditor General
Boyd Garriott, Legislative Fiscal Analyst
Steven Allred, Legislative Fiscal Analyst
Dr. David Sundwall, Executive Director, Department of Health
Michael Deily, Director, Division of Health Care Financing
Laura Polacheck, AARP
Van Ellet, AARP
Ted Loosli, Chair, Utah Medical Care Advisory Committee

A list of visitors and a copy of handouts are filed with the committee minutes.

1. Call to Order

Committee Co-Chairman Ron Bigelow called the meeting to order at 1:15 p.m.

MOTION: Sen. Lyle Hillyard moved the minutes of May 17, 2005 be approved. The motion passed unanimously with Sen. Davis and Reps. Alexander and Urquhart absent.

2. Federal Funds Report approval

Co-chair Hillyard announced that the list of federal grant applications for committee approval will now be mailed to committee members so they have an opportunity to review the list prior to the meeting.

MOTION: Sen. Knudson moved the committee authorize the federal grant applications as listed under Tab 2. The motion passed unanimously with Sen. Davis and Rep. Urquhart absent.

3. Intent Language - Review of policies and procedures - Jon Ball and John Fellows

Jon Ball, Legislative Fiscal Analyst, presented a report under tab 3 on "Intent Language as Used in Appropriations Acts". He drew attention to questions on page 6 which subcommittees might consider in looking at intent language for nonlapsing funds and line item funding. He also reviewed their recommendations and conclusion.

There were no questions from the committee, however, Co-chair Bigelow commented that while progress was made towards better use of intent language during the 2005 session, there was at least one instance where intent language was moved to statutory language.

MOTION: Co-Chair Hillyard made a motion that the Legislative Fiscal Analyst staff be directed to review all intent language in the appropriations act from the last session, and mark those items that raise question. They should give a report to each subcommittee so that the members can see and understand their concerns. Co-Chair Bigelow clarified that these reports will be given to the subcommittees, not the Executive Appropriations Committee. The motion passed unanimously with Sen. Davis and Rep. Urquhart absent.

MOTION: Co-chair Hillyard moved that more specific guidelines be adopted for intent language on nonlapsing funds so subcommittees can know how much nonlapsing funds there are. These guidelines should include consideration of the following questions as listed on the top of page 4:

- (1) How have nonlapsing balances for a line-item changed in the past five years for which observed financial data is available?
- (2) How have actual nonlapsing balances compared to corresponding estimates of

- those balances made prior to each of the previous five fiscal years?
- (3) How does the line-item spend its resources over the course of a fiscal year?
 - (4) What evidence can a program manager provide to justify the need for nonlapsing authority in advance of a fiscal year?

There should also be a summary form generated for the Executive Appropriations Committee showing what each committee has in nonlapsing balances.

RESTATED MOTION: Sen. Hillyard restated his motion that staff be directed to work with each appropriation committee and give them information before the beginning of the budget process next year regarding items 1 through 4 on nonlapsing funds, and then depending on how they react, a decision can be made on the other issues. This is vital information for subcommittees and the executive appropriation committee.

Co-chair Bigelow said he wants to put the onus on the committees that if they are going to approve nonlapsing funds, there should be significant justification for that. It's very easy for subcommittees to just approve them, but if they have to answer these questions, it may force them to consider nonlapsing funds in more detail.

The motion passed unanimously with Sen. Davis and Rep. Urquhart absent.

4. Legislative Auditor General - Report on best practices - John Schaff

Legislative Auditor General John Schaff came before the committee to present a new concept, not a plan, for agencies to conduct self-audits under the guidance of his office. He presented background information and pointed out that in their audits, they repeatedly see the same areas of poor management over and over again. The areas are 1) Lack of acceptable governance, 2) Inadequate policies and procedures, 3) Ineffective standards or performance measures, 4) Insufficient reporting data. Because their capacity to conduct the increasing requests for audits is limited, the audit committee charged them to look for new ways to promote good management. He said that in the last two years, 95% of their suggestions have been implemented. In their approach for self audits, they could provide a booklet with directions and helps for agencies to conduct their own self audit. Legislative Fiscal Analyst (LFA) and Legislative Auditor General (LAG) would oversee the self audits, and agencies could report back to the appropriations committees.

Pres. Valentine commented that he found the background information more intriguing than the concept, as this trend has not been seen before. He requested a printed copy of the information presented. Sen. Bramble gave an example and expressed concern of organizational loyalty.

Co-chair Bigelow suggested the concept has merit and he wished, though not practical, it could be done across state government. Rep. Clark commented that in his profession, he has seen this concept become much more common with a self audit trail, and then results are tested as a way to promote practices and controls. It may be more challenging to take from financial situations and use in state government, but he cannot think of a part of state government that would not benefit from this concept.

Mr. Schaff concluded that they had been surprised to see the competitive nature of the four areas of good or poor management as listed on his handout and while governance concerns seem very simple, they continue to see huge problems. One may think it is so obvious, but they continue to see the same problems again and again. He said he believes all agencies would benefit from looking at themselves.

Mr. John Massey, Legislative Fiscal Analyst, commented that there is great collaboration between agencies and legislative offices, and he feels there is a great deal of cooperation, but they are always looking for better ways to work together and help with accountability issues in state government. Co-Chair Bigelow concluded that the Governor's Office of Planning and Budget (GOPB) may already have similar programs in place and if this is a concept the committee would want to pursue, perhaps in the future, suggestions on how to implement the process with involvement from governor's staff could be presented.

5. Higher Education Buildings - Programming, operations, and maintenance costs - Boyd Garriott and Steve Allred.

Boyd Garriott, Legislative Fiscal Analyst, began this presentation by reviewing what Operations and Maintenance (O&M) is and the problem that is created with time lag delays in O&M funding after construction, but before O&M costs are appropriated. In past lean years, the legislature has sometimes struggled to fund O&M and institutions have had to absorb costs out of their operating funds. He suggested that institutions provide answers to four questions listed on pages 9-11 to determine programmatic costs. He also gave recommendations for consideration as outlined on pages 12-13.

Steve Allred, Legislative Fiscal Analyst, talked about evaluation of existing facilities and described the process for institutions requesting new facilities. He said each institution and agency can submit one project request each year to the Building Board for evaluation and some projects are submitted year after year.

Sen. Bramble asked about a building in American Fork that was purchased by Alpine schools and then leased to UVSC. According to the lease, the state would own the building at the end of the lease, so how would the state account for O&M? Mr. Allred responded that O&M costs are generally included in the lease contract. Sen. Bramble said this is an important issue to follow up on and asked that a written report be presented in a future meeting on the issues of lease/purchase and O&M costs.

Mr. Massey agreed that there is a disconnect on how capital leases are treated within state agencies and in state higher education institutions.

Rep. Clark expressed interest in what Higher Education is doing to manage and reduce O&M costs. He asked if there are incentives in place and if they are being tracked. Mr. Garriott said that in terms of state funding for O&M, institutions are putting in a lot more than what is realized. Co-chair Hillyard asked if O&M funding has been increased to cover increasing costs. Mr. Garriott responded that the state funds salary increases to cover additional personnel and the legislature funds rate increases, but material increase costs don't get funded.

MOTION: Co-chair Hillyard moved the following recommendations as listed on page 12 individually:

MOTION 1: that the Legislature continue to fund O&M increases simultaneously with capital facility approvals. This would be done by the Capital Facilities Subcommittee and would become the policy for the upcoming session.

MOTION 2: that each higher education institution identify the impact a new facility has on institutional operating funds by responding to the following questions when they submit their proposal for a capital development program. This information should be submitted to both the Capital Facilities and Higher Education subcommittees so that the impact is clearly understood.

- a. What programs will be offered in the new facility?
- b. What will be done with the vacated space that currently houses the programs?
- c. How many new FTE students will be served?
- d. What are the additional program costs (including program expansion of reclaimed space by other programs) associated with the new facility?

MOTION 3: that FTE figures for O&M and for programmatic purposes be reported separately.

MOTION 4: that the committee recommend consideration of funding for another comprehensive space utilization and standards study to aid in the assessment of new facilities required in higher education.

The motions all passed unanimously Reps. McGee and Urquhart absent at the time of voting.

Rep. Jones questioned if tuition increases have helped fund O&M in lean years and what impact these recommendations will have in future lean years. Mr. Garriott suggested one solution would be to make sure funding is allocated for O&M at the time buildings are approved. He also said tuition increases

are generally only used for compensation and programmatic needs.

Pres. Valentine pointed out that in the past when buildings came online, institutions had allowed tuition to be used for O&M, but last year that had been changed, and any gap periods will be covered in future years. In only those two lean years, new O&M costs basically came out of pocket, but institutions should now be able to hold back on tuition increases since those costs will now be covered.

6. Report on Statewide construction and leasing - Steve Allred

Mr. Allred quickly reviewed state funded capital development projects on pages 3, 4 and 5 in the "State Funded Building Construction and State Agency/Institution" report. He said most of the projects are coming in on or under budget and on time.

Rep. Clark questioned the contingency reserve fund on page 4. Mr. Allred said the fund is now about \$7 million and the trend is that it is not declining rapidly.

7. Preferred Drug Program - Medicaid Benefit Amendments - Dr. David Sundwall, Michael Deily, Dept. Of Health, AARP - Other Presenters

Dr. David Sundwall, Executive Director, Department of Health, began this discussion saying they were asking consideration and support of what they feel is an important mechanism for saving funds in the Medicaid program. He said the fastest growing component of the state budget is Medicaid, and prescription drug costs are the fastest growing part of Medicaid. Dr. Sundwall explained what a Preferred Drug List (PDL) program is and how it differs from a formulary and gave examples of others states who have adopted this type of program and the savings they have realized. He said that a PDL does not limit choices as they can apply for drug inclusion. A PDL results in manufacturer price competition and helps to limit spending by using less expensive options. It establishes a competitive environment between equally comparative drugs and generic drugs and maintains quality by using evidence based research facilities. Once a state has a PDL program, it can then gain more bargaining power by joining a purchasing pool. They estimate the costs of implementing a PDL project to be about \$150,000.

Dr. Sundwall and Mr. Michael Deily, Director, Division of Health Care Financing, responded to questions and discussed with the committee projected cost savings and implementation costs, drugs that could be included in PDL, drug availability issues, evidenced based research centers, why doctors don't prescribe more expensive, faster reacting drugs without trying cheaper drugs first, copays, etc. Dr. Sundwall reassured they are not starting from scratch and he doesn't believe patients would suffer from using a PDL. He reaffirmed they are asking for an opportunity to try it, in a limited fashion. He said the amount of money pharmaceutical companies pay to educate doctors and the public, is more than the budget of small countries and doctors are educated day in and day out from pharmaceutical

companies who provide a great service, but are for profit companies, which is why using an evidence based research center for information is so valuable.

Co-chair Bigelow clarified that savings reported by other states are not net costs, they are gross costs and questioned why it was reported in another committee there would be no advantage for

Utah to join into a purchasing pooling. He asked if there are methods other than a PDL to get discounts from drug companies. He said he is skeptical because almost every new program comes in as a cost savings, but the savings are never what they were expected to be. He said that is partly why legislators always challenge the numbers, along with it has been found that Utah does not realize the savings found in other states because we do a good job keeping down costs.

Laura Polacheck, and Van Elliot from AARP expressed strong support of the direction the Department of Health is recommending. They said they believe a PDL will save money and they would not support a program that would provide inadequate care for patients. They agree physicians are over burdened and under a lot of pressure from drug companies, and the state would benefit from an outside evidenced based group. They support prior authorization programs and believe Utah will realize savings.

Speaker Curtis questioned how evidenced based research institutes are funded and how much Utah would pay to contract with the one in Oregon. Mr. Deily responded that they are funded through states contracts and Utah would pay a total amount of approximately \$500,000. Mr. Elliott confirmed that these evidenced based research groups do not receive grants from pharmaceutical companies and are very scrupulous in making sure there are no conflicts of interest in doing their research.

Mr. Ted Loosli, chair of the Utah Medical Care Advisory Committee, also briefly expressed support saying this is a good idea. Others wishing to speak in support were asked to save their comments for a future meeting when this discussion would continue.

Without a quorum present, the meeting adjourned at 4:01 P.M.

Minutes reported by Lynette Erickson